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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.

IVAN D. CARRASCO and RAUL CARRASCO
Plaintiffs,

v.

THE RACK, INC, and SEAN GANNON
Defendants.

03-495
2003 OCT 20 P 2:25
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE
SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE

COMPLAINT

Parties

1. Plaintiff Ivan D. Carrasco lives and resides at 334 Prospect Street, Lawrence, Essex County, Massachusetts.

2. Plaintiff Raul Carrasco lives and resides at 565 Haverhill Street, Lawrence, Essex County, Massachusetts.

3. Defendant The Rack, Inc is a Massachusetts Corporation with a principal and customary place of business located at 24 Clinton Street, Boston, Suffolk County, Massachusetts.

4. Defendant Sean Gannon is a Boston Police officer with a principal place of business at Boston Police Headquarters, One Schroeder Plaza, Boston, Suffolk County, Massachusetts.

Factual Allegations

5. On or about the evening of November 30, 2001, Plaintiffs who are Hispanic by heritage, dark skinned by color, were customers and patrons at Defendant Rack located in the Faneuil Hall area of Boston.

6. Plaintiff Raul Carrasco was dancing with a white woman when he was

assaulted and severely beaten by a number of unidentified white customers and employees, as well as by an off-duty Boston Police officer, Defendant Gannon, who had been hired by the Defendant Rack to work special duty in uniform.

7. Plaintiff Ivan Carrasco was severely beaten when he came to assist his brother and both were the recipients of a barrage of racial slurs and epithets and threats.

8. Defendant Gannon, personally assaulted and forcibly threw Plaintiff Raul Carrasco onto a pool table and handcuffed Raul Carrasco and then pushed him through The Rack and unhandcuffed Plaintiff and told him to leave. Defendant Gannon shortly thereafter forcibly pushed Plaintiff Ivan Carrasco onto the concrete surface outside the Rack, handcuffed him and repeatedly struck Plaintiff before removing the handcuffs.

9. At all times relevant and material, Defendants Gannon and The Rack and its employees, agents and servants were yelling racial epithets and racial slurs and threats rather than protecting and promoting the safety of Plaintiffs.

10. At all times relevant and material, Defendants Sean Gannon and The Rack tolerated, permitted, promoted, condoned, stimulated and instigated customers known to Defendants to commit crimes of violence against Plaintiffs while uttering racial slurs and otherwise violating Plaintiffs' civil rights.

COUNT I
(Negligence against The Rack, Inc.)

11. Defendant Rack so negligently and carelessly trained, operated, maintained, supervised, hired and retained employees including the Defendant as to permit and promote racial epithets, slurs and threats, and other wrongs and civil

rights violations and permitted Plaintiffs who were patrons to be beaten by customers and by agents, servants and employees of Defendant Rack all to Plaintiffs' great damage.

12. As a result of the aforementioned events, Plaintiffs suffered bodily injuries, great pain of mind and body, incurred reasonable and necessary medical expenses for their care and treatment and have suffered permanent and serious bodily injuries.

COUNT II
(Intentional Infliction of Emotional Distress against Defendants)

13. Defendants and their respective agents, servants or employees, inflicted severe and unreasonable emotional distress by their intentional and outrageous conduct with knowledge and reason to know such conduct would cause emotional distress.

14. The acts and omissions of Defendants, and their respective agents, servants and employees were so extreme and outrageous and beyond permissible bounds of decency as to be utterly intolerable in a civilized community and they caused substantial emotional distress in this regard to each Plaintiff.

COUNT III
(Civil Rights Violations against Defendants)

15. Defendant Rack, is a licensed victualer and licensee authorized to distribute alcohol under the laws of the Commonwealth of Massachusetts, and yet it tolerated, permitted, promoted, condoned, stimulated and instigated violations of Plaintiffs' civil rights by their acts and omissions as described above.

16. Defendant Rack, and its agents, servants and employees, including

Defendant Gannon interfered by threats, intimidation and coercion, and attempted to so interfere, with the exercise and enjoyment by Plaintiffs of civil rights secured under the Constitution and laws of the United States and the Massachusetts Constitution, its Declaration of Rights and the laws of the Commonwealth.

17. The beatings, threats, handcuffing, eviction from the premises, intimidation and coercion led to substantial physical pain and injuries, embarrassment, humiliation, emotional pain and suffering, and caused Plaintiffs to incur reasonable and necessary medical expenses for their care and treatment.

18. Defendants were each acting under color of law and the rights secured by the Constitution and the laws that were violated include:

- a) violations of the first and fourteenth amendments to the federal constitution and the various rights secured by the state constitution and laws and to express themselves and to act free of racial and ethnic discrimination.
- b) be served by licensed victualers and alcohol licensees such as the Rack.


19. Defendants violated the provisions of 42 USC §1983 and the provisions of G.L. c.93, §102 all to the Plaintiffs' great damage and harm.

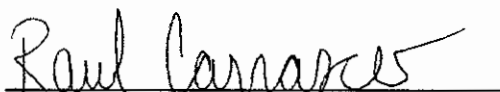
20. As a result of these intentions and wrongful acts, Plaintiffs seek compensatory and punitive damages against each Defendant.

WHEREFORE, Plaintiffs each demand judgment for all such amounts that the court deems each Plaintiff entitled to recover together with interest, costs, and attorney fees.

Verification

We, Ivan D. Carrasco and Raul Carrasco, state and affirm under oath that we have carefully reviewed this Complaint and we know that the facts as set forth herein are true and accurate facts and we further verify and attest to their truthfulness.


Ivan D. Carrasco


Raul Carrasco

JURY CLAIM

Plaintiff each demands a jury by trial.

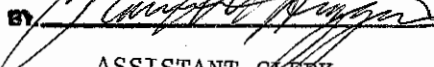
Respectfully Submitted,
Plaintiffs Ivan D. Carrasco, and
Raul Carrasco
By their Attorney,


Robert H. Flynn, (BBO #172900)
Daly, Cavanaugh & Flynn, LLP
27 Mica Lane
Wellesley, MA 02481
(781) 237-0600

Dated: October ¹³~~10~~, 2003
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I HEREBY ATTEST AND CERTIFY ON
DEC. 11, 2003, THAT THE
FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT


ASSISTANT CLERK